

**REAL ESTATE BOARD  
MINUTES  
MADISON, WISCONSIN  
September 27, 2001**

**PRESENT:** Richard Hinsman, Bettye Lawrence, Harold (Hal) Lee, Richard Kollmansberger, Jerome Nelson and James Imhoff, Jr.

**EXCUSED:** Nancy Gerrard

**STAFF PRESENT:** Cletus Hansen; William Black, Legal Counsel; Secretary Oscar Herrera, William Dusso and Division of Enforcement staff were present for portions of the meeting.

**GUESTS:** Richard Staff, WRA

**CALL TO ORDER**

The meeting was called to order at 10:40 a. m. by Jim Imhoff, Chair, upon confirmation that the public notice was timely given. A quorum of 6 members was present

**AGENDA**

**MOTION:** Richard Hinsman moved, seconded by Hal Lee, to adopt the agenda. Motion carried unanimously.

**MINUTES (08/23/01)**

**MOTION:** Hal Lee moved, seconded by Richard Kollmansberger, to approve the minutes as written. Motion carried unanimously.

**ADMINISTRATIVE REPORT**

**Oscar Herrera**

Secretary Herrera informed the Committee about several biennial budget items that affect the Department. He said that a 5% cut in state budgets did not affect the Department's operations, because the Department has a reserve fund. The Department received three positions in DOE. Secretary Herrera also said that provisions pertaining to closing agents, the membership of the Pharmacy Examining Board, and a cemetery management fund were vetoed. The Department had requested the vetoes.

Secretary Herrera also stated that the Performance Evaluation Office of the Department of Administration had reviewed the Department and the Division of Enforcement to determine how the Department could provide better service to the public.

## **Clete Hansen**

- **Board Roster**

The Board received a copy of the June 2001 roster. No corrections were suggested.

- **Meeting Dates for 2001**

The Board especially noted that the screening session that had initially been scheduled for October 25, 2001, was changed to November 8, 2001, at 10:00 a.m.

- **Summary Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules**

- **To-Do List**

Noted

- **To-Pass Folder**

Noted

## **LEGISLATION**

### **LRB 2647/1 re: Licensing Requirements for Real Estate Brokers Licensed by Other States**

Clete Hansen explained that this bill is considered a high priority by the Department. The Department will be try to get it passed during the current legislative session.

### **Update re: Bills and Proposals**

- **Biennial Budget Bill and Other Bills and Proposals**

Clete Hansen provided the Board with copies of several pages from 2001 Wisconsin Act 16. These pages pertain to a broker's liability for the acts of his or her employees (i. e. full-time branch office manager) and the revised license fees.

## **ADMINISTRATIVE RULES**

The Board acknowledged that, following the revision to the statutes pertaining to full-time branch office managers, the Board and the Department should be able to return to its work on the revision of rules pertaining to supervision of employees. Secretary Oscar Herrera and General Counsel, Bill Dusso, were present for this discussion.

Secretary Herrera and Clete Hansen suggested that a committee should be appointed by the Secretary and the committee should begin to meet as soon as possible. Secretary Herrera

suggested that the committee should consist of 2 board members, William Dusso, William Black, Charles Howden, Clete Hansen and Rick Staff. Three Board members were interested in being on the committee. It was agreed that Jim Imhoff, Richard Hinsman and Richard Kollmansberger would be appointed to the committee. Secretary Herrera suggested that the committee should set a timeline and try to finish its work within a few months.

### **TIME FOR DISCLOSING AGENCY**

Secretary Oscar Herrera and General Counsel, William Dusso, were present for this discussion. Jim Imhoff said there are two perspectives relating to this issue:

1. Disclosing agency prior to showing a property to a prospective buyer, i. e. at the first meaningful meeting with the prospective purchasers.
2. What frequently happens in practice. In practice compliance is “soft.” Some licensees do not give the agency disclosure before showing a property. As far as open houses are concerned, some licensees do not give the disclosure until they sit down at the table in the dining room and begin serious negotiations.

Jim Imhoff suggested to the Board that the Board and the Department have two choices:

1. Change the requirement concerning when the disclose must be given. Revise the rules.
2. Keep the current time of disclosure requirement, but clarify that the disclosure must be given before the first meaningful meeting with the customer.

### **MISCELLANEOUS CORRESPONDENCE**

#### **Technology and Licensing Article by Michael Gorham**

The Board noted the relevancy of this article to the proposed rulemaking pertaining to supervision of employees and pertaining to the proposed revision of the statutes relating to reciprocity.

#### **Correspondence From Oscar Herrera to William Malkasian**

The Board took note of this correspondence, which relates to the Wisconsin Realtors Association’s list of priorities.

### **PUBLIC COMMENT**

None

### **PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT**

The Board was given an opportunity by Jim Imhoff to ask questions about a stipulation submitted by Charles Howden. Mr. Howden was not available. This proposed stipulation pertained to Edward E. Hoffer of Watertown, WI.

## RECESS TO CLOSED SESSION

**MOTION:** Bettye Lawrence moved, seconded by Jerry Nelson, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Department or the investigation of charges against such a person. Specifically, to discuss the Case Status Report, a monitoring report, case closings, stipulations, and proposed decisions that were presented in Open Session. Motion carried unanimously by a roll call vote: Richard Kollmansberger-yes; Bettye J. Lawrence-yes; Jerome M. Nelson-yes; Harold Lee-yes; Jim Imhoff-yes and Richard Hinsman-yes. Motion carried unanimously.

Open Session recessed at 11:45 a. m.

The Board received a copy of the Division of Enforcement Case Status Report.

The Board deliberated on stipulations, actions relating to the monitoring report, case closings and a request for relicensure. Final voting on these issues was conducted in Open Session.

## RECONVENE IN OPEN SESSION

**MOTION:** Bettye Lawrence moved, seconded by Hal Lee, to adjourn the Closed Session and to reconvene in Open Session at 12:10 p. m. Motion carried unanimously.

## VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

### CASE CLOSINGS

**MOTION:** Richard Hinsman moved, seconded by Jerry Nelson, to close the following cases presented by the Division of Enforcement for closing. Motion carried unanimously.

99 REB 257	01 REB 029
00 REB 084	01 REB 080
00 REB 177	01 REB 094
00 REB 244	
01 REB 013	

### STIPULATIONS

#### **Edward E. Hoffer (Watertown, WI)**

**MOTION:** Richard Hinsman moved, seconded by Richard Kollmansberger, to accept the Stipulation, Findings of Fact, and Conclusions of Law and Order in the

disciplinary matter involving Edward E. Hoffer. Motion carried unanimously.

**David A. Skrocki (Oviedo, FL)**

**MOTION:** Richard Hinsman moved, seconded by Richard Kollmansberger, to vacate the Order of the Board at its August 2001 meeting and to accept the Stipulation, Findings of Fact, and Conclusions of Law and Order of the corrected Order that was sent to the Board by Charles Howden, Prosecutor, on August 30, 2001. Motion carried unanimously.

**MONITORING REPORT**

**Daniel J. Naven (Kenosha, WI)**

**MOTION:** Richard Kollmansberger moved, seconded by Bettye Lawrence, to further modify the Order of June 28, 2001, to allow Mr. Naven to pay 50% of the required forfeiture on or before September 30, 2001, and the remaining 50% of the required forfeiture on or before October 31, 2001. Motion carried unanimously.

**Melvyn Mueller (Neillsville)**

Marlene Meyer, Disciplinary Monitor, reviewed the previous disciplinary order relating to Melvyn Mueller and stated that Mueller has requested an additional extension of time to complete the education that the Board had ordered. The Board refused to issue an order, granting another extension. Therefore, Mr. Mueller has not complied with the order and the suspension now takes effect.

**REQUEST FOR RELICENSURE OF PATRICK HUBERTY**

**Patrick J. Huberty (Waukesha, WI)**

The Board reviewed Patrick Huberty's request for information, relating to the reinstatement of his real estate salesperson's license. The Board informally directed Cletus Hansen to inform Mr. Huberty that he must file an application and fee, before the Board will act on the application.

**HOME INSPECTORS**

Bettye Lawrence stated that she had read an article in a newspaper, alleging that certain real estate agents will not use certain home inspectors who write negative inspection reports. The Board briefly discussed the relationship between home inspectors and real estate agents.

**ADJOURNMENT**

By consensus the meeting adjourned at 12:20 p. m.